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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

COX COMMUNICATIONS, INC.;
COXCOM, LLC; and COX
COMMUNICATIONS CALIFORNIA,
LLC,

Defendants.

) Lead Case No.
) 2:23-cv-01049-JWH-KES
)
) Related Case No. 2:23-cv-01050-
) JWH-KES
)
) Lead Case No.
) 2:23-cv-01043-JWH-KES
)
) Related Case Nos.
) 2:23-cv-01047-JWH-KES
) 2:23-cv-01048-JWH-KES
) 2:23-cv-05253-JWH-KES
)

ENTROPIC COMMUNICATIONS,
LLC,

Plaintiff,

v.

COMCAST CORPORATION;
COMCAST CABLE
COMMUNICATIONS, LLC; and
COMCAST CABLE
COMMUNICATIONS
MANAGEMENT, LLC,

Defendants.

)
) **COMCAST'S NOTICE OF**
) **MOTION AND MOTION TO**
) **STAY; MEMORANDUM OF**
) **POINTS AND AUTHORITIES IN**
) **SUPPORT THEREOF**
)

) Date: October 18, 2024
) Time: 9:00 am
) Dept: 9D
) Judge: Hon. John W. Holcomb
)

NOTICE OF MOTION AND MOTION TO STAY

PLEASE TAKE NOTICE that on October 18, 2024, at 9:00 a.m. or as soon thereafter as the matter may be heard, in Courtroom 9D, before the Honorable John W. Holcomb, of the United States District Court for the Central District of California, 411 W 4th St, Santa Ana, CA 92701, Defendants Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, and Comcast Corporation (“Comcast”) will and hereby do move the Court for an order staying all proceedings in Case Nos. 23-cv-01048 and 23-cv-01050 pending the resolution of *inter partes* reviews (“IPRs”) by the United States Patent and Trademark Office (“USPTO”).

As explained in the attached Memorandum, Comcast makes this Motion because proceeding with these cases at this time will waste significant Court and party resources. Of the 20 patents asserted across both cases, this Court has finally or tentatively invalidated seven of them under 35 U.S.C. § 101. Of the remaining 13 patents, six are subject to already-instituted IPRs and institution decisions are expected on three others by October 11, 2024. Moreover, Comcast cannot be subject to suit on *any* of the patents-in-suit until the termination of a covenant not to sue in August 2025. As a result, a stay pending IPR will promote judicial efficiency and economy and preserve the resources of the Court and parties while ensuring that these cases do not continue on claims for which subject-matter jurisdiction does not exist.

This motion is based on this Notice of Motion and the supporting Memorandum of Points and Authorities, the concurrently filed declaration and exhibits, other materials in the record, argument of counsel, and such other matters as the Court may consider. This Motion is made following a conference of counsel pursuant to Local Rule 7-3, which took place on September 10, 2024.

1 Dated: September 17, 2024

Respectfully submitted,

2 /s/ Kathryn Bi

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I. INTRODUCTION

Comcast moves to stay the Entropic-Comcast Cases pending resolution of IPRs by the USPTO.¹ Entropic asserted 20 patents against Comcast across these two cases. Sixteen of those patents have already been, or are likely to be, invalidated by this Court or the USPTO: the Court invalidated or tentatively invalidated seven patents under 35 U.S.C. § 101, the USPTO instituted IPR of six additional patents, and institution decisions are expected on three others by October 11, 2024.² That leaves only four asserted patents that are not subject to either IPR challenges or invalidation by this Court. Proceeding to litigate at this juncture would waste judicial resources and the parties' time; the wiser course would be to stay this case pending resolution of the IPRs. That is particularly so because, as the Court has already found, the Court has no subject-matter jurisdiction over non-willful patent-infringement claims against Comcast until the expiration of a covenant not to sue in August 2025. Since Entropic has been unable to adequately plead willful infringement of *any* of the asserted patents, these cases cannot move forward until that date in any event.

Because the cases are in their early stages and cannot move forward now, a stay would greatly simplify the issues and not prejudice Entropic. Accordingly, the Court should stay all proceedings in the Entropic-Comcast Cases pending the USPTO's disposition of the IPRs.

¹ In addition to those defined in the Notice of Motion, this memorandum uses the following abbreviations: (1) "Entropic" means Entropic Communications, LLC; (2) "Entropic-Comcast Cases" means Case Nos. 23-cv-01048 and 23-cv-01050; (3) "MaxLinear" means MaxLinear, Inc.; and (4) "VSA" means the Vendor Support Agreement between Comcast and MaxLinear effective as of August 1, 2020.

² Comcast files the instant motion in advance of those institution decisions per the Court's order that Comcast make any request to extend the current stay in Case No. 23-cv-01043 by September 17, 2024. *See* Case No. 23-cv-01043, Dkt. No. 531.

II. FACTUAL AND PROCEDURAL BACKGROUND

Before Entropic filed these cases, its predecessor in interest, MaxLinear, executed a VSA with Comcast. *Entropic Commc'ns, LLC v. Comcast Corp.*, 702 F. Supp. 3d 954, 960 (C.D. Cal. 2023), *reconsideration denied sub nom. Entropic Commc'ns, LLC v. DISH Network Corp.*, 2024 WL 210975 (C.D. Cal. Jan. 12, 2024). The VSA included a covenant not to sue Comcast for non-willful patent infringement during its term:

During the Term, **Vendor**, on behalf of itself and all Affiliates, (each, a “Vendor Covenanting Party”), to the extent Comcast, Comcast’s Affiliates, (each, a “Comcast Protected Party”) have not willfully infringed a Vendor Covenanting Party’s patent, copyright, or trademark, or knowingly misappropriated a Vendor Covenanting Party’s trade secret, ***covenants not to sue Comcast Protected Party for patent***, copyright, or trademark ***infringement***, or for misappropriation of trade secrets, as the case may be, with respect to Comcast Protected Party’s purchase, use, or deployment of any product or service.

Id. (quoting VSA § 7.3) (emphasis added); *see also* Case No. 23-cv-01050, Dkt. No. 75-2 at § 7.3 (filed under seal). In March 2021, MaxLinear assigned the patents-in-suit to Entropic, which filed the Entropic-Comcast Cases in February 2023 notwithstanding the covenant not to sue. 702 F. Supp. 3d at 961.

After Comcast raised the covenant not to sue with Entropic on several occasions between March and May 2023, MaxLinear sent Comcast a notice of termination of the VSA, pursuant to which the VSA and covenant will terminate on August 21, 2025. *See* Case No. 23-cv-01050, Dkt. No. 76-23 (MaxLinear’s May 2023 notice letter); *see Comcast Cable Commc’ns Mgmt. v. MaxLinear, Inc.*, 23-cv-04436, Dkt. No. 66 at 2 (S.D.N.Y. Sept. 12, 2023) (“MaxLinear agrees to perform all of its services, and the obligations with respect to services, in a timely manner and without qualification, pursuant to the VSA and SOW, until May 23, 2024.”); *see also id.*, at Dkt. No. 75-2 at § 11.1 (VSA filed under seal). Entropic

1 then filed First Amended Complaints in both cases on June 5, 2023. Case No. 23-
2 cv-01048, Dkt. No. 67; Case No. 23-cv-01050, Dkt. No. 63.

3 Comcast moved to dismiss Entropic's First Amended Complaints for lack of
4 subject-matter jurisdiction and a failure to state a claim for willful infringement.
5 Case No. 23-cv-01048, Dkt. No. 83; Case No. 23-cv-01050, Dkt. No. 76. The
6 Court granted Comcast's motion, holding that MaxLinear assigned the asserted
7 patents to Entropic subject to the covenant not to sue and that its First Amended
8 Complaints failed to plausibly allege willful infringement. *Entropic*, 702 F. Supp.
9 3d at 962, 965-67. The Court gave Entropic leave try to cure its deficient willful-
10 infringement allegations in an amendment, *id.* at 967, but operative amended
11 complaints have yet to be entered.³

12 Since Entropic filed its cases, Comcast and defendants in related cases have
13 challenged the patentability of the patents-in-suit before this Court and the
14 USPTO. As to several of the patents, other defendants filed motions to dismiss or
15 for judgment on the pleadings under 35 U.S.C. § 101. *See* Case No. 23-cv-01043,
16 Dkt. Nos. 50, 160; Case No. 23-cv-01047, Dkt. No. 64. Comcast and one other
17 defendant also filed IPR petitions on the remaining patents asserted in the First
18

19
20 ³ Following the Court's November 2023 order, Entropic filed Second Amended
21 Complaints and then moved for leave to file further supplemental and amended
22 complaints. Case No. 23-cv-01043, Dkts. No. 192-1, 193, 205; Case No. 23-cv-
23 01049, Dkts. No.130-1, 131, 143. Comcast moved to dismiss the Second Amended
24 Complaints because they again failed to plausibly allege willful infringement. Case
25 No. 23-cv-01043, Dkt. No. 249; Case No. 23-cv-01049, Dkt. No. 175. The Court
26 referred Entropic's motions to the Special Master (Case No. 23-cv-1043, Dkt. No.
27 273; Case No. 23-cv-1049, Dkt. 191) and denied without prejudice Comcast's
28 motions to dismiss as premature because the Court had not determined whether
Entropic could amend or supplement. Case No. 23-cv-01043, Dkt. No. 347; Case
No. 23-cv-1049, Dkt. No. 244. On March 6, 2024, the Special Master
recommended that Entropic's unopposed motions for leave to supplement and
amend be granted but that recommendation remains pending. Case No. 23-cv-
01043, Dkt. No. 397-1; Case No. 23-cv-01049, Dkt. No. 277-1. Accordingly, per
the Court's February 15 order, Comcast has been unable to renew its motions to
dismiss the supplemental and amended complaints.

Amended Complaints before the USPTO. The following table summarizes the status of each patent-in-suit:

Patent No.	C.D. Cal. Case No.	Citation
<i>Patents Invalidated by the Court</i>		
8,228,910	23-cv-01043	Dkt. No. 103
10,257,566	23-cv-01043	Dkt. No. 103
<i>Patents Subject to a Tentative Invalidity Ruling by the Court</i>		
8,085,802	23-cv-01043	Ex. A (Tentative MTD Order)
8,363,681	23-cv-01043	Ex. A (Tentative MTD Order)
8,621,539	23-cv-01043	Ex. A (Tentative MTD Order)
9,838,213	23-cv-01047	Ex. B (Tentative 12(c) Order)
10,432,422	23-cv-01047	Ex. B (Tentative 12(c) Order)
<i>Patents on Which the USPTO Already Instituted IPR</i>		
7,295,518	23-cv-01048	<i>DISH Network Corp. v. Entropic Commc'ns, LLC</i> , IPR2024-00393, Paper 7 (P.T.A.B. July 26, 2024) (instituting IPR on claims 1 and 3) <i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i> , IPR2024-00431, Paper 8 (P.T.A.B. Sept. 6, 2024) (instituting IPR on claims 1-4) ⁴
7,594,249	23-cv-01048	<i>DISH Network Corp. v. Entropic Commc'ns, LLC</i> , IPR2024-00373, Paper 9 (P.T.A.B. July 26, 2024) (instituting IPR on claims 1-17)
8,223,775	23-cv-01050	<i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i> , IPR2024-00446, Paper 11 (P.T.A.B. Sept. 3, 2024) (instituting IPR on claims 1-20)
8,284,690	23-cv-01050	<i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i> , IPR2024-00430, Paper 8

⁴ Citations to IPR papers refer to entries on the USPTO's Patent Trial and Appeal Case Tracking System, available at <https://ptacts.uspto.gov/ptacts/ui/home>.

Patent No.	C.D. Cal. Case No.	Citation
		(P.T.A.B. Sept. 6, 2024) (instituting IPR on claims 1-24)
8,792,008	23-cv-01050	<i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00441, Paper 8 (P.T.A.B. Sept. 5, 2024) (instituting IPR on claims 1-18)
9,825,826	23-cv-01050	<i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00442, Paper 8 (P.T.A.B. Aug. 20, 2024) (instituting IPR on claims 1-18)
<i>Patents on Which the USPTO May Still Institute IPR</i>		
9,210,362	23-cv-01050	<i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00434, Paper 2 (P.T.A.B. Feb. 16, 2024) <i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00433, Paper 2 (P.T.A.B. Feb. 16, 2024) <i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00432, Paper 2 (P.T.A.B. Feb. 16, 2024)
11,381,866	23-cv-01050	<i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00435, Paper 2 (P.T.A.B. Feb. 16, 2024) <i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00436, Paper 2 (P.T.A.B. Feb. 16, 2024) <i>Comcast Cable Commc 'ns, LLC v. Entropic Commc 'ns, LLC</i> , IPR2024-00437, Paper 2 (P.T.A.B. Feb. 16, 2024)

Patent No.	C.D. Cal. Case No.	Citation
11,399,206	23-cv-01050	<p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00438, Paper 2 (P.T.A.B. Feb. 16, 2024)</p> <p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00439, Paper 2 (P.T.A.B. Feb. 16, 2024)</p> <p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00440, Paper 2 (P.T.A.B. Feb. 16, 2024)</p>
<i>Patents Not Subject to IPR or a Court Ruling of Invalidity</i>		
7,889,759	23-cv-01048	<p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00452, Paper 11 (P.T.A.B. Aug. 19, 2024) (denying institution)</p> <p><i>DISH Network Corp. v. Entropic Commc'ns, LLC</i>, IPR2024-00462, Paper 14 (P.T.A.B. Aug. 16, 2024) (denying institution)</p>
8,320,566	23-cv-01048	<i>Dish Network Corp. v. Entropic Commc'ns, LLC</i> , IPR2024-00555, Paper 9 (P.T.A.B. Aug. 21, 2024) (denying institution)
8,631,450	23-cv-01048	<i>DISH Network Corp. v. Entropic Commc'ns, LLC</i> , IPR2024-00560, Paper 11 (P.T.A.B. Aug. 15, 2024) (denying institution)
10,135,682	23-cv-01050	<p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00445, Paper 9 (P.T.A.B. Sept. 9, 2024) (denying institution)</p> <p><i>Comcast Cable Commc'ns, LLC v. Entropic Commc'ns, LLC</i>, IPR2024-00444, Paper 9 (P.T.A.B. Sept. 6, 2024) (denying institution)</p>

III. LEGAL STANDARDS

A district court has broad discretion to stay proceedings under its inherent power to manage its docket. *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). This

power includes the discretion to stay a case pending proceedings before the USPTO. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988). When determining whether to stay a case pending IPR, district courts generally consider three factors: “(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the nonmoving party.” *Danco Inc. v. Fluidmaster Inc.*, 2024 WL 3914664, at *1 (C.D. Cal. Apr. 3, 2024) (quoting *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028, 1030-31 (C.D. Cal. 2013)). “While these factors are important, ultimately the totality of the circumstances governs.” *Id.* (cleaned up); *see also Murata Mach. USA v. Daifuku Co.*, 830 F.3d 1357, 1362 (Fed. Cir. 2016) (“Attendant to the district court’s inherent power to stay proceedings [under *Landis*] is the court’s discretionary prerogative to balance considerations beyond those captured by the [IPR-based] three-factor stay test.”).

IV. ARGUMENT

The circumstances here uniformly support a stay pending IPR. The Court should thus stay the Entropic-Comcast Cases until the IPRs conclude, at which point the covenant not to sue will have terminated and the Court will possess subject-matter jurisdiction over Entropic’s claims of non-willful patent infringement.

A. Discovery Is Not Complete and No Trial Dates Are Set

In considering a request for stay, courts first consider “the stage of the proceedings, including whether discovery is complete and whether a trial date has been set.” *Pi-Net Intern., Inc. v. Hertz Corp.*, 2013 WL 7158011, at *2 (C.D. Cal. June 5, 2013) (cleaned up). This factor weighs strongly in favor of a stay here.

Fact discovery in both cases is still in its early stages. Entropic has produced only a few hundred documents in each case, the parties have yet to exchange

1 proposals for email discovery, and third-party discovery—which will be
2 extensive—is still in the negotiation phase. No fact depositions have taken place,
3 nor have any been noticed. The Court has not issued any final claim constructions
4 and claim-construction briefing has not even begun in Case No. 23-cv-01048. The
5 close of fact discovery, expert discovery, and trial have not been scheduled in
6 either case. “Courts routinely grant stays at similar or later stages in the
7 proceedings.” *Synopsys, Inc. v. Siemens Indus. Software Inc.*, 2022 WL 20508655,
8 at *2 (N.D. Cal. June 7, 2022) (collecting cases granting a stay where “claim
9 construction is complete and the parties have already engaged in fact discovery”);
10 *Pi-Net*, 2013 WL 7158011, at *2 (collecting cases finding “a stay appropriate
11 under similar circumstances”).

12 **B. A Stay of the Cases Would Simplify the Issues**

13 The second factor “considers whether a stay will simplify the issues in
14 question and trial of the case.” *Danco*, 2024 WL 3914664, at *2 (cleaned up). IPR
15 “significantly narrow[s]” a case even when only some petitions are instituted. *Id.*,
16 at *3. Indeed, courts have stayed cases when “***only two of the seven patents-in-suit***
17 are the subjects of the ***pending*** IPR petitions.” *American GNC Corp. v. LG Elecs.*
18 *Inc.*, 2018 WL 1250876, at *4 (S.D. Cal. Mar. 12, 2018) (emphasis added). And
19 courts in the Ninth Circuit routinely find this factor favors a stay when the USPTO
20 has instituted IPR of most of the patents-in-suit. *See, e.g., Longitude Licensing Ltd.*
21 *v. Amazon.com, Inc.*, No. 23-cv-00039, Dkt. No. 80 at 5-6 (C.D. Cal. Feb. 26,
22 2024) (Holcomb, J.) (granting a stay when IPRs were instituted on three of four
23 patents); *Black Hills Media, LLC v. Pioneer Elecs. (USA) Inc.*, 2014 WL 4638170,
24 at *6 (C.D. Cal. May 8, 2014) (staying the case when IPRs were instituted on four
25 of seven patents and a fifth IPR institution decision was pending); *Twilio, Inc. v.*
26 *TeleSign Corp.*, 2018 WL 1609630, at *2 (N.D. Cal. Apr. 3, 2018) (granting total
27 stay when two of the three patents-in-suit were subject to IPR proceedings); *Robert*
28

1 *Bosch Healthcare Sys., Inc. v. Cardiocom, LLC*, 2014 WL 3107447, at *1-2 (N.D.
2 Cal. July 3, 2014) (granting total stay when four of the six patents-in-suit were
3 subject to IPR proceedings); *Synopsys, Inc.*, 2022 WL 20508655, at *3 (finding
4 this factor favors a stay when IPRs were instituted on three of four patents).

5 Most of the patents-in-suit here (16 of 20) have been finally or tentatively
6 invalidated by this Court or have—or may have—IPR proceedings instituted.
7 Considering only the patents not subject to a final or tentative invalidity ruling,
8 nine of the 13 are subject to IPR proceedings: six already instituted and three more
9 with institution decisions due by October 11, 2024. Those IPRs will streamline the
10 litigation considerably. If the challenged claims are invalidated, which is the most
11 likely outcome,⁵ the Court will be left to adjudicate only four of 20 patents and 21
12 of 118 asserted claims. However, “[e]ven if the [USPTO] does not invalidate *any*
13 claims, simplification is still possible” because there will be “a richer prosecution
14 history” and “intrinsic record” to assist the Court. *Longitude Licensing Ltd.*, No.
15 23-cv-00039, Dkt. No. 80 at 5-6 (emphasis added). Moreover, should any asserted
16 claims remain after final written decisions, “the estoppel provisions of 35 U.S.C. §
17 315(e)(2) will apply and will eliminate waived invalidity arguments” as to nearly
18 all the patents-in-suit on which IPRs were instituted. *Id.* at 6.

19 A full stay of both cases will also avoid piecemeal litigation. When
20 considering whether to stay litigation in full, courts consider overlapping
21 discovery, witnesses, technology, and damages issues between patents that are
22 subject to IPR and those that are not. *See, e.g., Robert Bosch Healthcare Sys., Inc.*,
23 2014 WL 3107447, at *5 (“[T]he allocation analysis for damages would be more
24 complete were the case adjudicated in whole rather than tried piecemeal.”). Here,
25

26 ⁵ See Stephen Schreiner, *Recent Statistics Show PTAB Invalidation Rates Continue*
27 *to Climb*, IPWatchdog (June 25, 2024), [https://ipwatchdog.com/2024/06/25/recent-](https://ipwatchdog.com/2024/06/25/recent-statistics-show-ptab-invalidation-rates-continue-climb/id=178226)
28 [statistics-show-ptab-invalidation-rates-continue-climb/id=178226](https://ipwatchdog.com/2024/06/25/recent-statistics-show-ptab-invalidation-rates-continue-climb/id=178226) (noting that
invalidation rates are “currently at 71% for the first two quarters of 2024. In 2023,
all challenged claims were found invalid 68% of the time.”).

1 all the asserted patents originate from the same entity (MaxLinear), were
2 transferred to Entropic as part of the same transaction, and concern overlapping
3 accused products. For example, in Case No. 23-cv-01050, the sole patent without a
4 pending IPR petition or instituted proceeding is asserted against the same accused
5 products as patents subject to instituted IPRs. *See, e.g.*, First Am. Compl. ¶¶ 138,
6 164, 264, Case No. 23-cv-01050, Dkt. No. 63. Similarly, in Case No. 23-cv-01048,
7 the patents that are not subject to instituted IPR petitions (and not invalidated by
8 the Court) are asserted against the same products as patents that are subject to
9 instituted IPR proceedings. *See, e.g.*, First Am. Compl. ¶¶ 173, 208, 243, 313, 520,
10 Case No. 23-cv-01048, Dkt. No. 67. In such circumstances, courts find a stay
11 warranted to avoid duplicative discovery of or from “common documents and
12 witnesses” across instituted and non-instituted patents. *See Methode Elec., Inc. v.*
13 *Infineon Tech. Corp.*, 2000 WL 35357130, at *3 (N.D. Cal. Aug. 7, 2000)
14 (granting motion to stay pending reexamination); *Sonics, Inc. v. Arteris, Inc.*, 2013
15 WL 503091, at *3 (N.D. Cal. Feb. 8, 2013) (explaining in the context of
16 reexamination “that staying the entire case is warranted” when there are
17 overlapping issues); *KLA-Tencor Corp. v. Nanometrics, Inc.*, 2006 WL 708661, at
18 *4 (N.D. Cal. Mar. 16, 2006) (finding a stay pending reexamination would
19 simplify issues involving the same products because the engineering and sales
20 personnel deposed would be the same).

21 Further, there is significant overlap ***across*** the two cases in this litigation. *Cf.*
22 *Overland Storage, Inc. v. BTD AG (Germany)*, 2014 WL 12160764, at *8 (S.D.
23 Cal. Feb. 11, 2014) (“[T]he simplification issue is best considered
24 holistically . . .”). Both cases involve cable networking, modems, and set-top
25 boxes. Staying only one case risks the Court having “to spend nearly twice the
26 amount of judicial resources to resolve a dispute ***between the same parties, who***
27 ***are represented by the same attorneys.***” *C.R. Laurence Co. v. Frameless*
28

1 *Hardware Co.*, No. 21-cv-01334, Dkt. No. 122 at 7-9 (C.D. Cal. Dec. 9, 2022)
2 (Holcomb, J.) (staying the case in full while denying motion to sever claims)
3 (emphasis added). Just as *within* each case, there will be significant discovery
4 overlap *across* the cases, including, for example, the same Comcast engineering
5 and sales personnel testifying about the same accused products and the same
6 Entropic and MaxLinear personnel testifying about the patents and related
7 commercial matters. *Overland Storage*, 2014 WL 12160764, at *7-8 (finding that
8 “the patents have some overlap, certainly with regards to witnesses and other
9 matters bearing on general efficiency” despite there being no overlapping claim-
10 construction issues, different prior art, and different expert witnesses as to
11 invalidity and infringement). The cases should move forward on similar timelines
12 to avoid “multiple rounds of expert discovery, multiple trials, and other potentially
13 duplicative efforts by the parties and the Court.” *WSOU Invest. LLC v. Juniper*
14 *Networks Inc.*, 2022 WL 19709, at *5 (N.D. Cal. Jan. 3, 2022) (declining to move
15 one patent infringement case, among several between the same parties, forward on
16 a different schedule than the others). Because judicial economy would not be
17 served by staying one case, the second factor also favors a stay of both cases at the
18 same time.

19 **C. Entropic Cannot Show Undue Prejudice**

20 To determine whether a stay pending IPR would unduly prejudice the
21 plaintiff, courts consider “factors such as the timing of the requests for [IPR] and a
22 stay, the status of the [IPR] proceedings, and the relationship of the parties.”
23 *Danco*, 2024 WL 3914664, at *3 (cleaned up). The plaintiff must “make[] a
24 *specific* showing of prejudice beyond the delay necessarily inherent in any stay.”
25 *Id.* Entropic cannot do so.

26 As a threshold matter, Entropic cannot be prejudiced because it cannot sue
27 Comcast for non-willful infringement of *any* of the patents-in-suit under the terms
28

1 of the VSA. The patents-in-suit are encumbered by the covenant not to sue, which
2 runs at least until August 2025, and Entropic has failed to plausibly allege willful
3 infringement. *Entropic*, 702 F. Supp. 3d at 963, 965-66. Entropic should not have
4 brought these lawsuits against Comcast when it did and the covenant bars its
5 claims now. Given this background, it is **Comcast** that would be unduly prejudiced
6 in the absence of a stay.

7 Even without the covenant not to sue, Entropic could not show prejudice.
8 Entropic is a non-practicing entity and the parties are not competitors. “This factor
9 **strongly** favors a stay” because there is no risk of irreparable harm and Entropic
10 “can be fully restored to the *status quo ante* with monetary relief” if it ultimately
11 prevails on any claim. *Software Rights Archive, LLC v. Facebook, Inc.*, 2013 WL
12 5225522, at *6 (N.D. Cal. Sept. 17, 2013) (explaining there is no risk that a stay
13 will prejudice a non-practicing entity that does not market any products or services
14 covered by the claims of the asserted patents) (emphasis added); *Doc. Sec. Sys.,*
15 *Inc. v. Seoul Semiconductor Co.*, 2020 WL 11421528, at *3 (C.D. Cal. July 2,
16 2020) (finding no prejudice because non-practicing-entity plaintiff “does not risk
17 losing additional sales should this action be stayed”); *Polaris Innovations Ltd. v.*
18 *Kingston Tech. Co., Inc.*, 2017 WL 8220599, at *2 (C.D. Cal. June 27, 2017)
19 (same).

20 Nor can Entropic show that any party was dilatory in filing its IPRs or in
21 seeking a stay. Entropic asserted 118 claims across 20 patents and preparing IPR
22 petitions required extensive effort. Time spent preparing petitions prior to the
23 statutory deadline does not constitute undue prejudice. *See SAGE Electrochromics,*
24 *Inc. v. View, Inc.*, 2015 WL 66415, at *3 (N.D. Cal. Jan. 5, 2015). Moreover, all
25 instituted and currently pending IPRs were filed shortly after the Court dismissed
26 Entropic’s First Amended Complaints but granted Entropic leave to amend.
27 Comcast cannot be faulted for seeking dismissal pursuant to its covenant not to sue
28

1 before responding on the merits. *Laser Spallation Techs., LLC v. The Boeing Co.*,
2 2024 WL 3915091, at *4 (C.D. Cal. May 22, 2024) (“Given the costs and burdens
3 of litigation, the Court finds it difficult to fault Defendant for seeking a dismissal
4 on jurisdictional grounds before responding to the claims on the merits, either in
5 court or in front of the [USPTO].”).

6 Comcast now moves to stay both the Entropic-Comcast Cases as IPR
7 institution decisions are reached and immediately upon the expiration of the
8 existing stay in Case No. 23-cv-1043 so that no additional unnecessary Court or
9 party resources are wasted. *See id.*, Dkt. No. 531.

10 **V. CONCLUSION**

11 The Court lacks subject-matter jurisdiction over non-willful infringement
12 claims, so staying the Entropic-Comcast Cases at least until the resolution of all
13 pending IPRs conclude will simplify matters for all involved. Comcast thus
14 respectfully requests this Court stay Case Nos. 23-cv-01048 and 23-cv-01050.

15
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Respectfully submitted,

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